

EXHIBIT 9

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DRAFT

1 BOIES SCHILLER FLEXNER LLP
2 David Boies (*pro hac vice*)
3 333 Main Street
Armonk, NY 10504
Tel: (914) 749-8200
dboies@bsfllp.com

4 Mark C. Mao (CA Bar No. 236165)
5 mmao@bsfllp.com
6 44 Montgomery Street, 41st Floor
San Francisco, CA 94104
Telephone: (415) 293 6858
7 Facsimile: (415) 999 9695

8 SUSMAN GODFREY L.L.P.

9 Bill Carmody
(*pro hac vice*)
bcarmody@susmangodfrey.com
10 1301 Avenue of the Americas, 32nd Floor
New York, NY 10019
11 Telephone: (212) 336-8330

12 MORGAN & MORGAN

13 John A. Yanchunis (*pro hac vice*)
jyanchunis@forthepeople.com
201 N. Franklin Street, 7th Floor
14 Tampa, FL 33602
15 Telephone: (813) 223-5505

16 *Attorneys for Plaintiffs; additional counsel
listed in signature blocks below*

1 QUINN EMANUEL URQUHART &
SULLIVAN, LLP
2 Diane M. Doolittle (CA Bar No. 142046)
dianedoolittle@quinnemanuel.com
3 555 Twin Dolphin Drive, 5th Floor
Redwood Shores, CA 94065
4 Telephone: (650) 801-5000
Facsimile: (650) 801-5100

5 Andrew H. Schapiro (*pro hac vice*)
andrewschapiro@quinnemanuel.com
6 191 N. Wacker Drive, Suite 2700
Chicago, IL 60606
7 Telephone: (312) 705-7400
Facsimile: (312) 705-7401

8 Stephen A. Broome (CA Bar No. 314605)
stephenbroome@quinnemanuel.com
9 Viola Trebicka (CA Bar No. 269526)
violatrebicka@quinnemanuel.com
10 865 S. Figueroa Street, 10th Floor
Los Angeles, CA 90017
11 Telephone: (213) 443-3000
Facsimile: (213) 443-3100

12 *Attorneys for Defendant; additional counsel
listed in signature blocks below*

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 OAKLAND DIVISION

16 CHASOM BROWN, WILLIAM BYATT,
17 JEREMY DAVIS, CHRISTOPHER
18 CASTILLO, and MONIQUE TRUJILLO
19 individually and on behalf of all other
similarly situated,

20 Plaintiffs,

21 v.

22 GOOGLE LLC,

23 Defendant.

24 Case No. 4:20-cv-03664-YGR-SVK

25 **[DRAFT] WITNESS LIST**

26 Judge: Hon. Yvonne Gonzalez Rogers
Courtroom 1 – 4th Floor
Date: October 13, 2023
Time: 9:00 a.m.

Pursuant to the Court's March 3, 2023 Order (Dkt. 885), the Court's September 29, 2022 Standing Order Re: Pretrial Instructions in Civil Cases, and in advance of the Pretrial Conference set for October 13, 2023 at 9:00 a.m., Plaintiffs and Defendant Google LLC submit this witness list identifying (1) all fact witnesses likely to be called at trial other than solely for impeachment or rebuttal, and (2) all expert witnesses. Primary witnesses are identified with an asterisk next to their name. These lists are not a commitment that the either of the parties will in fact call any particular witness at trial but rather reflect a good-faith effort by the parties to identify witnesses they presently anticipate they will (or in some limited cases may) call to testify at trial in this matter, as well as the manner in which the witnesses will appear (*i.e.*, live or by deposition).

A. PLAINTIFFS' FACT WITNESS LIST

Witness Name	Manner	Substance of Testimony & Time Estimate
Chasom Brown*	Live / Expect to Call	<p>As one of the appointed class representatives and also as a plaintiff seeking damages individually, Mr. Brown will testify about his experience with private browsing, Google's conduct, and damages.</p> <p><u>Estimated length of Plaintiffs' direct:</u> <u>230</u> minutes</p> <p><u>Estimated length of Google's cross:</u> [To be added by Google]</p>
William Byatt*	Live / Expect to Call	<p>As one of the appointed class representatives and also as a plaintiff seeking damages individually, Mr. Byatt will testify about his experience with private browsing, Google's conduct, and damages.</p> <p><u>Estimated length of Plaintiffs' direct:</u> <u>230</u> minutes</p> <p><u>Estimated length of Google's cross:</u> [To be added by Google]</p>

1 Witness Name	2 Manner	3 Substance of Testimony & Time Estimate
4 Christopher Castillo*	5 Live / Expect to Call	6 As one of the appointed class representatives and also as a plaintiff seeking damages individually, Mr. Castillo will testify about his experience with private browsing, Google's conduct, and damages. <u>Estimated length of Plaintiffs' direct:</u> <u>230</u> minutes <u>Estimated length of Google's cross:</u> [To be added by Google]
8 Jeremy Davis*	9 Live / Expect to Call	10 As one of the appointed class representatives and also as a plaintiff seeking damages individually, Mr. Davis will testify about his experience with private browsing, Google's conduct, and damages. <u>Estimated length of Plaintiffs' direct:</u> <u>230</u> minutes <u>Estimated length of Google's cross:</u> [To be added by Google]
14 Monique Trujillo*	15 Live / Expect to Call	16 As one of the appointed class representatives and also as a plaintiff seeking damages individually, Ms. Trujillo will testify about her experience with private browsing, Google's conduct, and damages. <u>Estimated length of Plaintiffs' direct:</u> <u>230</u> minutes <u>Estimated length of Google's cross:</u> [To be added by Google]
20 Chris Palmer*	21 Live / Expect to Call	22 Mr. Palmer is a Google employee based in the Bay Area who was deposed in this case. Plaintiffs expect to question Mr. Palmer about internal Google communications and documents concerning Incognito and other private browsing modes, including for example Mr. Palmer's description of Incognito as "a lie" and a "problem of professional ethics basic honesty." <u>Estimated length of Plaintiffs' direct:</u> <u>1560</u> minutes <u>Estimated length of Google's cross:</u> [To be added by Google]

1 Witness Name	2 Manner	3 Substance of Testimony & Time Estimate
4 Parisa Tabriz*	5 Live / Expect to Call	6 Ms. Tabriz is a Google executive based in the 7 Bay Area. Plaintiffs expect to question Ms. 8 Tabriz regarding internal Google discussions to 9 address known misconceptions with private 10 browsing, including for example her email stating 11 that Google “should address” the “problems” with 12 Incognito identified by Mr. Palmer, where Google 13 then failed to actually address those known 14 problems. <u>Estimated length of Plaintiffs' direct:</u> 45 minutes <u>Estimated length of Google's cross:</u> [To be added 15 by Google]
16 Sabine Borsay*	17 Live / Expect to Call	18 Ms. Borsay is a Google employee based in 19 Germany who was deposed in this case. Plaintiffs 20 expect to question Ms. Borsay at trial regarding 21 internal discussions within Google to address 22 known misconceptions with private browsing, 23 including for example her recognition that Google 24 operates without consent when it collects, stores, 25 and uses private browsing data. <u>Estimated length of Plaintiffs' direct:</u> 4560 minutes <u>Estimated length of Google's cross:</u> [To be added by Google]
26 Lorraine Twohill*	27 Live / Expect to Call	28 Ms. Twohill is a Google executive based in the Bay Area who was deposed in this case. Plaintiffs expect her to question Ms. Twohill at trial about internal discussions to rebrand Incognito as well as known problems regarding Incognito, including her email to Mr. Pichai stating that Incognito is “not truly private.” <u>Estimated length of Plaintiffs' direct:</u> 3045 minutes <u>Estimated length of Google's cross:</u> [To be added by Google]

1 Witness Name	2 Manner	3 Substance of Testimony & Time Estimate
4 Blake Lemoine	5 Live / May Call	6 Mr. Lemoine is a former Google employee based 7 in the Bay Area. Plaintiffs may call Mr. Lemoine 8 as a witness to testify at trial about Google's 9 collection and use of private browsing information, including without limitation for various AI-based algorithms, and also regarding Google's internal processes in connection with documenting and addressing problems. <u>Estimated length of Plaintiffs' direct:</u> 30 minutes <u>Estimated length of Google's cross:</u> [To be added by Google]
10 Brian Rakowski	11 Live / May Call	12 Mr. Rakowski is a Google employee based in the 13 Bay Area who was deposed in this case. Plaintiffs may call Mr. Rakowski as a witness to 14 testify at trial regarding Google's development of Incognito mode and Google's failure to address known misconceptions with private browsing, with Google intentionally collecting, storing, and using private browsing information for Google's own financial benefit without consent. <u>Estimated length of Plaintiffs' direct:</u> 230 minutes <u>Estimated length of Google's cross:</u> [To be added by Google]
18 Rory McClelland	19 Live / May Call	20 Mr. McClelland is a former Google employee based in Europe who was deposed in this case. Plaintiffs may call Mr. McClelland to testify at trial (live or if necessary by deposition), both to present documents and certain admissions regarding Google's failure to address known misconceptions surrounding Incognito mode, with Google executives rejecting certain proposed changes. <u>Estimated length of Plaintiffs' direct:</u> 30 minutes <u>Estimated length of Google's cross:</u> [To be added by Google]

1 Witness Name	2 Manner	3 Substance of Testimony & Time Estimate
4 AbdelKarim Mardini	5 Live / May Call	6 Mr. Mardini is a Google employee based in France who was deposed in this case. Plaintiffs may call Mr. Mardini as a witness to testify at trial (live or if necessary by deposition) regarding internal Google documents and admissions about Google's failure to address known misconceptions surrounding Incognito. <u>Estimated length of Plaintiffs' direct:</u> 30 minutes <u>Estimated length of Google's cross:</u> [To be added by Google]
7 Ramin Halavati	8 Live / May Call	9 Mr. Halavati is a Google employee based in Germany who was deposed in this case. Plaintiffs may call Mr. Halavati as a witness at trial (live or if necessary by deposition) to testify regarding certain internal Google documents and admissions regarding known misconceptions around Incognito mode and Google's failure to address those known misconceptions. <u>Estimated length of Plaintiffs' direct:</u> 30 minutes <u>Estimated length of Google's cross:</u> [To be added by Google]
10 Adrienne Porter Felt	11 Live / <u>May Will</u> Call	12 Ms. Porter Felt is a Google employee based in the Bay Area who was deposed in this case. Plaintiffs may call Ms. Porter Felt as a witness to testify at trial regarding certain internal Google documents and admissions regarding known misconceptions around Incognito mode and Google's failure to address those known misconceptions. <u>Estimated length of Plaintiffs' direct:</u> 630 minutes <u>Estimated length of Google's cross:</u> [To be added by Google]

1 Witness Name	2 Manner	3 Substance of Testimony & Time Estimate
4 Martin Shelton	5 Live / May Call	6 Mr. Shelton is a former Google employee based in the Bay Area who was deposed in this case. Plaintiffs may call Mr. Shelton to testify at trial (live or if necessary by deposition), both to present documents and certain admissions regarding Google's failure to address known misconceptions around Incognito mode. <u>Estimated length of Plaintiffs' direct:</u> <u>230</u> minutes <u>Estimated length of Google's cross:</u> [To be added by Google]
9 Greg Fair	10 Live / May Call	11 Mr. Fair is a former Google employee based in the Bay Area who was deposed in this case. Plaintiffs may call Mr. Fair to testify at trial (live or if necessary by deposition), both to present documents and certain admissions regarding Google's failure to address known misconceptions around Incognito mode. <u>Estimated length of Plaintiffs' direct:</u> 30 minutes <u>Estimated length of Google's cross:</u> [To be added by Google]
16 Sammit Adhya <u>[Plaintiffs will prepare a list of exhibits to discuss with the possibility of dropping in exchange for stipulated admission]</u>	17 Live / May Call	18 Mr. Adhya is a Google employee based in the Bay Area who was deposed in this case. Plaintiffs may call Mr. Adhya to testify at trial (live or if necessary by deposition), both to present documents and certain admissions regarding Google's failure to address known misconceptions around Incognito mode. <u>Estimated length of Plaintiffs' direct:</u> <u>Potentially drop]30 minutes</u> <u>Estimated length of Google's cross:</u> [To be added by Google]

1 Witness Name	2 Manner	3 Substance of Testimony & Time Estimate
4 Michael Kleber	5 Deposition / May Call	6 Mr. Kleber is a Google employee based in Massachusetts who was deposed in this case. Plaintiffs may present portions of Mr. Kleber's deposition testimony at trial, both to present documents and certain admissions regarding Google's failure to respect users' privacy, including by rejecting proposed changes to Incognito mode. 7 <u>Estimated length of Plaintiffs' direct:</u> <u>130</u> minutes 8 <u>Estimated length of Google's cross:</u> [To be added by Google]
9 Helen Harris <u>[Plaintiffs will prepare a list of exhibits to discuss with the possibility of dropping in exchange for stipulated admission]</u>	10 Live / May Call	11 Ms. Harris is a former Google employee based in the Bay Area who was a document custodian in this case. If the parties are unable to agree to the admission of certain documents produced from her files, then Plaintiffs may seek to have Ms. Harris testify at trial. 12 <u>Estimated length of Plaintiffs' direct:</u> <u>Potentially drop]5</u> minutes 13 <u>Estimated length of Google's cross:</u> [To be added by Google]
14 Jesse Adkins	15 Deposition / May Call	16 Mr. Adkins is a current Google employee based in Pennsylvania who was designated and deposed as a corporate representative in this case. Plaintiffs may present portions of Mr. Adkins' deposition testimony at trial for admissions concerning what information Google collects, saves, and uses from users who visit non-Google websites with Google tracking or advertising code. 17 <u>Estimated length of Plaintiffs' direct:</u> <u>45</u> minutes 18 <u>Estimated length of Google's cross:</u> [To be added by Google]

1 Witness Name	2 Manner	3 Substance of Testimony & Time Estimate
4 Stephen Chung	5 Deposition / May Call	6 Mr. Chung is a current Google employee based in Los Angeles who was designated and deposed as a corporate representative in this case. Plaintiffs may present portions of Mr. Chung's deposition testimony at trial regarding how common Google's tracking and advertising code is on non-Google websites, and also what information Google collects, saves, and uses from users who visit non-Google websites with Google tracking or advertising code. 7 <u>Estimated length of Plaintiffs' direct:</u> 15 minutes 8 <u>Estimated length of Google's cross:</u> [To be added by Google]
9 Glenn Berntson	10 Deposition / <u>May Will</u> Call	11 Dr. Berntson is a current Google employee based in New York who was designated and deposed as a corporate representative, as well as a fact witness, in this case. Plaintiffs may present portions of Dr. Berntson's testimony at trial, both to present documents and for admissions concerning what information Google collects, saves, and uses from users who visit non-Google websites with Google tracking or advertising code. 12 <u>Estimated length of Plaintiffs' direct:</u> <u>4530</u> minutes 13 <u>Estimated length of Google's cross:</u> [To be added by Google]
14 Bert Leung	15 Live / <u>Expect</u> <u>to May</u> Call	16 Mr. Leung is a current Google employee based in the Bay Area who was deposed in this case. Plaintiffs expect to call Mr. Leung to testify at trial, both to present documents and for admissions concerning Google's collection, storage, and use of private browsing information, including with respect to Google's use of undisclosed detection bits. 17 <u>Estimated length of Plaintiffs' direct:</u> <u>1520</u> minutes 18 <u>Google is precluded from eliciting testimony</u> <u>from Mr. Leung (Dkt. 588).</u>

1 Witness Name	2 Manner	3 Substance of Testimony & Time Estimate
4 Chris Liao	5 Live / <u>Expect</u> <u>to May</u> Call	6 Mr. Liao is a current Google employee based in the Bay Area who was deposed in this case. Plaintiffs expect to call Mr. Liao to testify at trial, both to present documents and for admissions concerning Google's collection, storage, and use of private browsing information, including with respect to Google's use of undisclosed detection bits. <u>Estimated length of Plaintiffs' direct:</u> 20 minutes <u>Google is precluded from eliciting testimony</u> <u>from Mr. Liao (Dkt. 588).</u>
7 Mandy Liu	8 Live / <u>Expect</u> <u>to May</u> Call	9 Ms. Liu is a current Google employee based in Canada who was deposed in this case. Plaintiffs expect to call Ms. Liu to testify at trial (live or if necessary by deposition), both to present documents and for admissions concerning Google's collection, storage, and use of private browsing information, including with respect to Google's use of undisclosed detection bits. <u>Estimated length of Plaintiffs' direct:</u> <u>1520</u> minutes <u>Google is precluded from eliciting testimony</u> <u>from Mr. Liu (Dkt. 588).</u>
10 David Monsees <u>[Plaintiffs will</u> <u>prepare a list of</u> <u>exhibits to discuss</u> <u>with the possibility</u> <u>of dropping in</u> <u>exchange for</u> <u>stipulated admission]</u>	11 Live / Expect to Call	12 Mr. Monsees is a current Google employee based in the Bay Area who was deposed in this case. Plaintiffs may seek to have Mr. Monsees testify at trial concerning what information Google collects, saves, and uses from users who interact with Chrome before visiting websites, as well as how Google collects, saves, and uses information from users who visit non-Google websites with Google tracking or advertising code. <u>Estimated length of Plaintiffs' direct:</u> <u>[Potentially</u> <u>drop]15 minutes</u> <u>Estimated length of Google's cross:</u> [To be added by Google]

1 Witness Name	2 Manner	3 Substance of Testimony & Time Estimate
4 Caitlin Sadowski <u>[Plaintiffs will</u> <u>prepare a list of</u> <u>exhibits to discuss</u> <u>with the possibility</u> <u>of dropping in</u> <u>exchange for</u> <u>stipulated admission]</u>	5 Live / May Call	6 Dr. Sadowski is a current Google employee based in the Bay Area who was designated and deposed as a corporate representative in this case. Plaintiffs may call Dr. Sadowski to testify at trial in part to admit certain documents, if the parties are unable to otherwise stipulate to the admission of those documents. 7 <u>Estimated length of Plaintiffs' direct:</u> <u>10</u> <u>minutes</u> <u>[Potentially drop]</u> 8 <u>Estimated length of Google's cross:</u> [To be added by Google]
9 Justin Schuh	10 11 12 13 Live or Deposition / May Call	14 Mr. Schuh is a former Google employee who was deposed in this case. Plaintiffs may present portions of Mr. Schuh's deposition testimony at trial, both to present documents and to demonstrate the feasibility of Chrome blocking third-party cookies by default, as well as what information Google collects, saves, and uses from users who visit non-Google websites with Google tracking or advertising code. 15 <u>Estimated length of Plaintiffs' direct:</u> <u>15-10</u> minutes 16 <u>Estimated length of Google's cross:</u> [To be added by Google]
17 Sonal Singhal	18 19 20 21 Deposition / May Call	22 Ms. Singhal is a current Google employee based in the Bay Area who was designated and deposed as a corporate representative in this case. Plaintiffs may seek to play certain deposition testimony at trial, including regarding Google's costs. 23 <u>Estimated length of Plaintiffs' direct:</u> <u>15</u> minutes 24 <u>Estimated length of Google's cross:</u> [To be added by Google]

1 Witness Name	2 Manner	3 Substance of Testimony & Time Estimate
4 Deepti Bhatnagar <u>[Plaintiffs will</u> <u>prepare a list of</u> <u>exhibits to discuss</u> <u>with the possibility</u> <u>of dropping in</u> <u>exchange for</u> <u>stipulated admission]</u>	5 Deposition / May Call	6 Ms. Bhatnagar is a current Google employee based in New York who was deposed in this case. Plaintiffs may present portions of Ms. Bhatnagar's deposition testimony at trial, both to present documents and for admissions concerning what information Google collects, saves, and uses from users who visit non-Google websites with Google tracking or advertising code. <u>Estimated length of Plaintiffs' direct:</u> <u>15</u> <u>minutes</u> <u>[Potentially drop]</u> <u>Estimated length of Google's cross:</u> [To be added by Google]
7 Troy Walker	8 Deposition / May call	9 Mr. Walker is a Google employee based in Los Angeles, California. Plaintiffs may present portions of Mr. Walker's deposition testimony at trial, both to present documents and for admissions concerning Google's Screenwise program. <u>Estimated length of Plaintiffs' direct:</u> <u>105</u> minutes <u>Estimated length of Google's cross:</u> [To be added by Google]
10 Audrey An <u>[Plaintiffs will</u> <u>prepare a list of</u> <u>exhibits to discuss</u> <u>with the possibility</u> <u>of dropping in</u> <u>exchange for</u> <u>stipulated admission]</u>	11 Deposition / May Call	12 Ms. An is a Google employee based in Munich, Germany who was designated and deposed as a corporate representative in this case. Plaintiffs may present portions of Ms. An's deposition testimony at trial, both to present documents and for admissions concerning how Google values information that Google collects, saves, and uses from users who visit non-Google websites with Google tracking or advertising code. <u>Estimated length of Plaintiffs' direct:</u> <u>15</u> <u>minutes</u> <u>[Potentially drop]</u> <u>Estimated length of Google's cross:</u> [To be added by Google]

1 Witness Name	2 Manner	3 Substance of Testimony & Time Estimate
4 Chetna Bindra <u>[Plaintiffs will</u> <u>prepare a list of</u> <u>exhibits to discuss</u> <u>with the possibility</u> <u>of dropping in</u> <u>exchange for</u> <u>stipulated admission]</u>	5 Live / May Call	6 Ms. Bindra is a Google employee based in the Bay area who was deposed in the <i>Calhoun</i> case. Plaintiffs may call Ms. Bindra to testify about how Google monetizes and values data that it collects, stores, and uses. <u>Estimated length of Plaintiffs' direct:</u> <u>15</u> <u>minutes</u> <u>[Potentially drop]</u> <u>Estimated length of Google's cross:</u> [To be added by Google]
7 Jonathan McPhie <u>[Plaintiffs will</u> <u>prepare a list of</u> <u>exhibits to discuss</u> <u>with the possibility</u> <u>of dropping in</u> <u>exchange for</u> <u>stipulated admission]</u>	8 Live / May Call	9 Mr. McPhie is a current Google employee based in the Bay Area who was deposed in this case. Plaintiffs may call Mr. McPhie to present certain documents, including documents regarding the form contract and disclosures by Google. <u>Estimated length of Plaintiffs' direct:</u> <u>15</u> <u>minutes</u> <u>[Potentially drop]</u> <u>Estimated length of Google's cross:</u> [To be added by Google]
10 Google Document Custodian	11 Live / May Call	12 If necessary and subject to negotiation with Google, Plaintiffs may call a Google document custodian for purposes of presenting certain documents. <u>Estimated length of Plaintiffs' direct:</u> 5 minutes <u>Estimated length of Google's cross:</u> [To be added by Google]

23 B. **PLAINTIFFS' EXPERT WITNESS LIST**

24 Pursuant to Paragraph 3(d) of the Court's September 29, 2022 Standing Order Re: Pretrial
25 Instructions in Civil Cases, Plaintiffs provide information below regarding the experts they expect
26 to call at trial. For each expert, a summary plainly stating the expert's theories and conclusions and
27 the basis therefore is included in each of the expert reports, which are included with this submission
28 along with a curriculum vitae, and will be included in the Trial Readiness Binder.

1 Expert Name	2 Manner	3 Substance of Testimony & Time Estimate
4 5 6 7 8 9 10 Bruce Schneier*	11 12 13 14 15 16 17 18 Live / Expect to Call	19 20 21 22 23 24 25 26 27 28 Professor Bruce Schneier, a lecturer and fellow at the Harvard Kennedy School, is a security technologist who researches, writes, and speaks about computer security and Internet security, as well as the economic, psychological, and sociological aspects of security and privacy. Professor Schneier studies user behavior and human factors related to security and privacy, and his 2014 book Data and Goliath explores people's relationship with privacy and their behaviors regarding privacy. Professor Schneier will provide context for the existence of reasonable expectations of privacy in connection with private browsing communications, and why Google's collection, storage, and use of that information is highly offensive. For example, Professor Schneier will address the value of user data and describe how the need for privacy has grown as corporate surveillance becomes more widespread. Professor Schneier will also describe why browsing information is highly personal and sensitive, and he will explain how Google's storage of users' private browsing data puts users at risk. <u>Estimated length of Plaintiffs' direct:</u> <u>90120</u> minutes <u>Estimated length of Google's cross:</u> [To be added by Google]

1 Expert Name	2 Manner	3 Substance of Testimony & Time Estimate
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 Jonathan Hochman*	Live / Expect to Call	<p>Jonathan Hochman is the founder of Hochman Consultants, an agency that provides clients with online security, ecommerce, and advertising services. He is also a current PhD student at Yale University in the Department of Computer Science, where he serves as a Teaching Fellow and is a member of the Yale Applied Cryptography Laboratory. Among other topics, Mr. Hochman will testify about the technical processes by which Google, on a classwide basis, collects, stores, and uses private browsing information, including for purposes of monetizing that private browsing information. Mr. Hochman will also describe the nature and contents of the private browsing information uniformly collected by Google and explain how the data is tied to unique identifiers and other information about users. In addition, having analyzed the data that Google produced to Plaintiffs through the Special Master process, Mr. Hochman will explain how Google systematically collects and tracks private browsing activity, where Google's Incognito "detection bits" (the subject of the Court's prior sanctions orders) reliably detected Incognito traffic with [REDACTED] accuracy. Using the same data from the Special Master process, Mr. Hochman will explain how, for all Class Members, private browsing data is identifying.</p> <p><u>Estimated length of Plaintiffs' direct:</u> 1280 minutes</p> <p><u>Estimated length of Google's cross:</u> [To be added by Google]</p>

1 Expert Name	2 Manner	3 Substance of Testimony & Time Estimate
4 5 6 7 8 Mark Keegan*	9 10 11 12 13 Live / Expect to Call	14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 Mark Keegan is a survey expert who has personally conducted over 1,000 consumer surveys reaching more than 250,000 consumers. For this case, Mr. Keegan conducted two surveys of people who used one or more of the private browsing modes at issue (Chrome, Safari, Edge, and Internet Explorer) during the Class Period. Mr. Keegan's first survey provides inputs for Plaintiffs' damages models. Mr. Keegan's second survey provides common evidence demonstrating that, based on their experience and review of certain disclosures (including the Incognito Splash Screen for Incognito users), 93.1% of users did not understand or believe that they consented to Google's collection and storage of their private browsing data. <u>Estimated length of Plaintiffs' direct:</u> <u>460</u> minutes <u>Estimated length of Google's cross:</u> [To be added by Google]
Michael Lasinski*	Live / Expect to Call	Michael Lasinski is a Certified Public Accountant with twenty-eight years of experience evaluating the financial aspects of intellectual property for government entities, corporations, and law firms. Mr. Lasinski will testify about both of his damages models, where he (1) quantified the amount by which Google was unjustly enriched from its collection and use of the at-issue private browsing data, and (2) valued Plaintiffs' private browsing data by way of a Google program where Google paid users to track their activity. Mr. Lasinski will also testify about how statutory damages can be calculated for the Plaintiffs' individual damages claims. <u>Estimated length of Plaintiffs' direct:</u> <u>90420</u> minutes <u>Estimated length of Google's cross:</u> [To be added by Google]

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C. GOOGLE'S FACT WITNESS LIST

<u>Witness Name</u>	<u>Manner</u>	<u>Substance of Testimony & Time Estimate</u>
<u>Glenn Berntson</u>	<u>Live / Expect to Call</u>	<p><u>Dr. Berntson will testify about how Google Ad Manager works, how the Incognito cookie jar works, the information Google Ad Manager receives when a user is in Incognito and factors that affect receipt of information, information Google Ad Manager receives when a user is in private browsing and factors that affect receipt of information, how Google does not join authenticated data with unauthenticated data, and other subjects discussed at his depositions or in his declarations.</u></p> <p><u>Estimated length of Google's direct: 90 minutes</u></p> <p><u>Estimated length of Plaintiffs' cross: [To be added by PlaintiffsPlease see time estimate above]</u></p>
<u>Steve Ganem</u>	<u>Live / Expect to Call</u>	<p><u>Mr. Ganem will testify about how Google Analytics works and the benefits to its customers, the information Google Analytics receives from users who are browsing in Incognito and in private browsing, the factors that affect whether Google receives certain pieces of information, and other subject matters discussed at his depositions or in his declarations.</u></p> <p><u>Estimated length of Google's direct: 30 minutes</u></p> <p><u>Estimated length of Plaintiffs' cross: [To be added by PlaintiffsPlaintiffs object to Google calling Mr. Ganem as a trial witness]</u></p>
<u>Greg Fair</u>	<u>Live / Expect to Call</u>	<p><u>Mr. Fair will testify about the Google Terms of Service, Privacy Policy, Help Center disclosures, and Private Browsing Mode screens, Google's consent process, striking the right balance in preparing and making disclosures and Google's efforts to do so, and other subject matters discussed at his depositions or in his declarations.</u></p> <p><u>Estimated length of Google's direct: 30 minutes</u></p> <p><u>Estimated length of Plaintiffs' cross: [To be added by PlaintiffsPlease see time estimate above]</u></p>
<u>Jonathan McPhie</u>	<u>Live / Expect to Call</u>	<u>Mr. McPhie will testify about the Google Terms of Service, Privacy Policy, help center disclosures, and Private Browsing Mode screens, Google's consent process, how Incognito mode provides privacy, striking the right balance in preparing</u>

<u>Witness Name</u>	<u>Manner</u>	<u>Substance of Testimony & Time Estimate</u>
		<p><u>disclosures and Google's efforts to do so, Google's efforts to make the privacy policy as clear and understandable as possible for users, and other subject matters discussed at his depositions or in his declarations.</u></p> <p><u>Estimated length of Google's direct: 30 minutes</u></p> <p><u>Estimated length of Plaintiffs' cross: [To be added by PlaintiffsPlaintiffs object to Google calling McPhie as a trial witness]</u></p>
<u>Adriana Porter Felt</u>	<u>Live / Expect to Call</u>	<p><u>Dr. Felt will testify about how Chrome works, how Incognito works, the information third party resources receive when a user visits a website and the purpose of sending that information, and other subject matters discussed at her depositions.</u></p> <p><u>Estimated length of Google's direct: 90 minutes</u></p> <p><u>Estimated length of Plaintiffs' cross: [To be added by PlaintiffsPlease see time estimate above]</u></p>
<u>Caitlin Sadowski</u>	<u>Live / Expect to Call</u>	<p><u>Dr. Sadowski may testify about how Chrome works, how Incognito works, Chrome metrics, and that UMA data is not joined to Google accounts, and other subject matters discussed at her deposition.</u></p> <p><u>Estimated length of Google's direct: 30 minutes</u></p> <p><u>Estimated length of Plaintiffs' cross: [To be added by PlaintiffsPlaintiffs object to Google calling Ms. Sadowski as a trial witness]</u></p>
<u>George Levitte</u>	<u>Live / May Call</u>	<p><u>Mr. Levitte may testify about the way Google earns revenue from Google Ad Manager and other subject matters discussed at his depositions or in his declarations.</u></p> <p><u>Estimated length of Google's direct: 30 minutes</u></p> <p><u>Estimated length of Plaintiffs' cross: [To be added by PlaintiffsPlaintiffs object to Google calling Mr. Levitte as a trial witness]</u></p>
<u>Rory McClelland</u>	<u>Deposition/May Call</u>	<p><u>Mr. McClelland may testify about data Google receives and stores while from private browsing sessions and other subject matters discussed at his deposition.</u></p> <p><u>Estimated length of Google's direct: 10 minutes</u></p>

<u>Witness Name</u>	<u>Manner</u>	<u>Substance of Testimony & Time Estimate</u>
		<u>Estimated length of Plaintiffs' cross:</u> [To be added by Plaintiffs See time estimate above]
<u>William Byatt</u>	<u>Live / May Call</u>	<u>Mr. Byatt is an appointed class representative. Google expects to question Mr. Byatt about his usage of Incognito mode and other private browsing modes and his alleged harm.</u> <u>Estimated length of Google's direct:</u> 15 minutes <u>Estimated length of Plaintiffs' cross:</u> [To be added by Plaintiffs See time estimate above]
<u>Jeremy Davis</u>	<u>Live / May Call</u>	<u>Mr. Davis is an appointed class representative. Google expects to question Mr. Davis about his usage of Incognito mode and other private browsing modes and his alleged harm.</u> <u>Estimated length of Google's direct:</u> 15 minutes <u>Estimated length of Plaintiffs' cross:</u> [To be added by Plaintiffs See time estimate above]
<u>Christopher Castillo</u>	<u>Live / May Call</u>	<u>Mr. Castillo is an appointed class representative. Google expects to question Mr. Castillo about his usage of Incognito mode and other private browsing modes and his alleged harm.</u> <u>Estimated length of Google's direct:</u> 15 minutes <u>Estimated length of Plaintiffs' cross:</u> [To be added by Plaintiffs See time estimate above]
<u>Chasom Brown</u>	<u>Live / May Call</u>	<u>Mr. Brown is an appointed class representative. Google expects to question Mr. Brown about his usage of Incognito mode and other private browsing modes and his alleged harm.</u> <u>Estimated length of Google's direct:</u> 15 minutes <u>Estimated length of Plaintiffs' cross:</u> [To be added by Plaintiffs See time estimate above]
<u>Monique Trujillo</u>	<u>Live / May Call</u>	<u>Ms. Trujillo is an appointed class representative. Google expects to question Ms. Trujillo about her usage of Incognito mode and other private browsing modes and her alleged harm.</u>

<u>Witness Name</u>	<u>Manner</u>	<u>Substance of Testimony & Time Estimate</u>
		<p><u>Estimated length of Google's direct: 15 minutes</u></p> <p><u>Estimated length of Plaintiffs' cross: [To be added by Plaintiffs] See time estimate above]</u></p>

D. GOOGLE'S EXPERT WITNESS LIST

Pursuant to Paragraph 3(d) of the Court's September 29, 2022 Standing Order Re: Pretrial Instructions in Civil Cases, Google provides information below regarding the experts it expects to call at trial. For each expert, a summary plainly stating the expert's theories and conclusions and the basis therefore is included in each of the expert reports, which are included with this submission along with a curriculum vitae, and will be included in the Trial Readiness Binder.

<u>Expert Name</u>	<u>Manner</u>	<u>Substance of Testimony & Time Estimate</u>
<u>Georgios Zervas</u>	<u>Live / Expect to Call</u>	<p><u>Dr. Zervas will testify about how the internet works, how private browsing works, the transmissions to Google Services while a user is in a PBM, that PBM works exactly how Google discloses it, and about other subject matters discussed at his deposition or in his expert reports.</u></p> <p><u>Estimated length of Google's direct: 120 minutes</u></p> <p><u>Estimated length of Plaintiffs' cross: 60 minutes [To be added by Plaintiffs]</u></p>
<u>Kostas Psounis</u>	<u>Live / Expect to Call</u>	<p><u>Dr. Psounis will testify that Google does not join authenticated with unauthenticated data, that Google does not join PBM data with Google profiles; will rebut Mr. Hochman's opinions related to logs and bits, and other subject matters discussed at his deposition or in his expert reports.</u></p> <p><u>Estimated length of Google's direct: 60 minutes</u></p> <p><u>Estimated length of Plaintiffs' cross: 45 minutes [To be added by Plaintiffs]</u></p>
<u>On Amir</u>	<u>Live / Expect to Call</u>	<p><u>Dr. Amir will testify that, based on surveys conducted, consumers expect that companies that provide analytics and advertising services to websites visited, including Google, receive data such as IP address, URLs of the sites visited, and cookies from consumers'</u></p>

<u>Expert Name</u>	<u>Manner</u>	<u>Substance of Testimony & Time Estimate</u>
		<p><u>private browsing sessions, that the average consumer would use Chrome in Incognito mode to do online research on a sensitive topic even if the Incognito Screen specifically listed Google, that Mr. Schneier and Mr. Keegan's opinions about consumer expectations and Keegan's survey are flawed, and other subject matters discussed at his deposition or in his expert reports.</u></p> <p><u>Estimated length of Google's direct: 30 minutes</u></p> <p><u>Estimated length of Plaintiffs' cross: 20 minutes</u> [To be added by Plaintiffs]</p>
<u>Bruce Strombom</u>	<u>Live / Expect to Call</u>	<p><u>Mr. Strombom will testify that Plaintiffs' damages model, including Mr. Lasikski's opinions, are flawed, and about other subject matters discussed at his deposition or in his expert reports.</u></p> <p><u>Estimated length of Google's direct: 30 minutes</u></p> <p><u>Estimated length of Plaintiffs' cross: 20 minutes</u> [To be added by Plaintiffs]</p>
<u>Paul Schwartz</u>	<u>Live / Expect to Call</u>	<p><u>Mr. Schwartz will testify that Mr. Hochman and Mr. Schneier's opinions about PI, PII, Identifying, and Non-Identifying Data are flawed and about other subject matters discussed at his deposition or in his expert reports.</u></p> <p><u>Estimated length of Google's direct: 15 minutes</u></p> <p><u>Estimated length of Plaintiffs' cross: 15 minutes</u> [To be added by Plaintiffs]</p>

21 DATED: _____, 2023

22 QUINN EMANUEL URQUHART &
SULLIVAN, LLP23 By: **/s/ DRAFT**

24 Andrew H. Schapiro (admitted *pro hac vice*)
andrewschapiro@quinnemanuel.com
Teuta Fani (admitted *pro hac vice*)
teutafani@quinnemanuel.com
Joseph H. Margolies (admitted *pro hac vice*)
josephmargolies@quinnemanuel.com
191 N. Wacker Drive, Suite 2700
Chicago, IL 60606
Telephone: (312) 705-7400
Facsimile: (312) 705-7401
Diane M. Doolittle (CA Bar No. 142046)

DATED: _____, 2023

BOIES SCHILLER FLEXNER LLP

By: **/s/ DRAFT**

David Boies (*pro hac vice*)
dboies@bsflp.com
333 Main Street
Armonk, NY 10504
Tel: (914) 749-8200

Mark C. Mao (CA Bar No. 236165)
mmao@bsflp.com
Beko Reblitz-Richardson (CA Bar No. 238027)
brichardson@bsflp.com
BOIES SCHILLER FLEXNER LLP
44 Montgomery Street, 41st Floor

1 dianedoolittle@quinnemanuel.com
 2 Sara Jenkins (CA Bar No. 230097)
 3 sarajenkins@quinnemanuel.com
 4 555 Twin Dolphin Drive, 5th Floor
 Redwood Shores, CA 94065
 Telephone: (650) 801-5000
 Facsimile: (650) 801-5100
 5 Stephen A. Broome (CA Bar No. 314605)
 stephenbroome@quinnemanuel.com
 6 Viola Trebicka (CA Bar No. 269526)
 violatrebicka@quinnemanuel.com
 Crystal Nix-Hines (Bar No. 326971)
 crystallnixhines@quinnemanuel.com
 Alyssa G. Olson (CA Bar No. 305705)
 alyolson@quinnemanuel.com
 7 865 S. Figueroa Street, 10th Floor
 Los Angeles, CA 90017
 Telephone: (213) 443-3000
 Facsimile: (213) 443-3100
 8 Jomaire Crawford (admitted *pro hac vice*)
 jomairecrawford@quinnemanuel.com
 9 D. Seth Fortenberry (admitted *pro hac vice*)
 sethfortenberry@quinnemanuel.com
 10 51 Madison Avenue, 22nd Floor
 New York, NY 10010
 Telephone: (212) 849-7000
 Facsimile: (212) 849-7100
 11 Josef Ansorge (admitted *pro hac vice*)
 josefansorge@quinnemanuel.com
 12 Xi ("Tracy") Gao (CA Bar No. 326266)
 tracygao@quinnemanuel.com
 Carl Spilly (admitted *pro hac vice*)
 carlspilly@quinnemanuel.com
 13 1300 I Street NW, Suite 900
 Washington D.C., 20005
 Telephone: (202) 538-8000
 Facsimile: (202) 538-8100
 14 Jonathan Tse (CA Bar No. 305468)
 jonathantse@quinnemanuel.com
 15 50 California Street, 22nd Floor
 San Francisco, CA 94111
 Telephone: (415) 875-6600
 Facsimile: (415) 875-6700
 16 Attorneys for Defendant Google LLC

17 San Francisco, CA 94104
 Telephone: (415) 293 6858
 Facsimile (415) 999 9695
 18 James W. Lee (*pro hac vice*)
 jlee@bsfllp.com
 Rossana Baeza
 rbaeza@bsfllp.com
 BOIES SCHILLER FLEXNER LLP
 100 SE 2nd Street, Suite 2800
 Miami, FL 33130
 Telephone: (305) 539-8400
 Facsimile: (305) 539-1304
 19 Bill Carmody (*pro hac vice*)
 bcarmody@susmangodfrey.com
 Shawn J. Rabin (*pro hac vice*)
 srabin@susmangodfrey.com
 Steven Shepard (*pro hac vice*)
 sshepard@susmangodfrey.com
 Alexander P. Frawley (*pro hac vice*)
 afrawley@susmangodfrey.com
 SUSMAN GODFREY L.L.P.
 1301 Avenue of the Americas, 32nd Floor
 New York, NY 10019
 Telephone: (212) 336-8330

20 Amanda Bonn (CA Bar No. 270891)
 abonn@susmangodfrey.com
 SUSMAN GODFREY L.L.P.
 1900 Avenue of the Stars, Suite 1400
 Los Angeles, CA 90067
 Telephone: (310) 789-3100

21 Alison L. Anderson, CA Bar No. 275334
 alanderson@bsfllp.com
 M. Logan Wright CA Bar No. 349004
 mwright@bsfllp.com
 BOIES SCHILLER FLEXNER LLP
 725 S. Figueroa Street, 31st Floor
 Los Angeles, CA 90017
 Telephone: (813) 482-4814

22 John A. Yanchunis (*pro hac vice*)
 jyanchunis@forthepeople.com
 Ryan J. McGee (*pro hac vice*)
 rmcgee@forthepeople.com
 MORGAN & MORGAN, P.A.
 201 N Franklin Street, 7th Floor
 Tampa, FL 33602
 Telephone: (813) 223-5505
 Facsimile: (813) 222-4736

23 Michael F. Ram, CA Bar No. 104805
 MORGAN & MORGAN
 711 Van Ness Ave, Suite 500
 San Francisco, CA 94102
 Tel: (415) 358-6913
 mram@forthepeople.com

24 25 26 27 28 Attorneys for Plaintiffs

ATTESTATION

I, [Name], hereby attest, pursuant to N.D. Cal. Civil L.R. 5-1, that the concurrence to the filing of this document has been obtained from each signatory hereto.

DATED: September 28, 2023

By: /s/ DRAFT